



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

(Sr. No. 322)

CWP No. 17530 of 2022

Date of decision: 13.05.2026

DLF Limited

.....Petitioner

Versus

The Commissioner of Central Goods and Service Tax and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

HON'BLE MS. JUSTICE LAPITA BANERJI

Present : Mr. Puneet Aggarwal, Advocate for the petitioner.

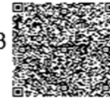
Mr. Sourabh Goel, Senior Standing Counsel with
Ms. Geetika Sharma, Advocate for the respondents.

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DEEPAK SIBAL, J. (Oral)

(1) Through an application dated 10.06.2019, filed under Rule 98 of the Central Goods and Services Tax Rules, 2017 (for short – the Rules), the petitioner approached the Advanced Ruling Authority (for short-the Authority) seeking an advance ruling as to whether the charges collected by the petitioner against preferential location of its flats are to be taxed independently or along with its main activity of construction/development.

(2) Through order dated 28.08.2020, the Authority decided that the charges collected by the petitioner against preferential location of the flats are to be taxed independent of the charges received by the petitioner towards development/construction.



(3) The petitioner challenged the order dated 28.08.2020 through filing of an appeal under Section 101 of the Central Goods and Services Tax Act, 2017 (for short – the Act) which was dismissed by the appellate authority on 28.03.2022.

(4) The issue raised by the petitioner, as above, was then taken up in the 54th meeting of the GST Council and through its decision dated 09.09.2024, the GST Council recommended that the charges received by developers against preferential location of flats are not to be taxed separately but along with charges collected for the supply of construction service.

(5) Accepting the afore recommendations of the GST Council, in the exercise of powers conferred under Section 168(1) of the Act, a clarification in the form of a circular was issued by the Government of India, Ministry of Finance, Department of Revenue (Tax Research Unit) which was to the effect that choice of location of an apartment was an integral part of supply of construction services and therefore, location charge was nothing but a part of consideration charged for the supply of construction services for an apartment before issuance of completion certificate and therefore, the charges for preferential location of an apartment would attract GST at the same rate as construction services.

(6) In the light of the above, learned counsel for the petitioner submits that both the order dated 28.08.2020, passed by the Authority and the order dated 28.03.2022, by the appellate authority are liable to be set aside.

(7) Learned counsel for the parties have been heard.



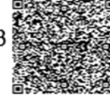
(8) The issue raised and decided by the Authority through its order dated 28.08.2020, upheld by the appellate authority through order dated 28.03.2022, was that the charges accepted by the petitioner on account of preferential location of an apartment were to be separately taxed from the charges collected for the supply of other construction services because such charges were not an integral part of supply of construction services.

(9) The afore issue was then taken up by the GST Council – a Body constituted under Article 279A of the Indian Constitution, which through its decision dated 09.09.2024, made recommendations that charges accepted by developers against preferential location of an apartment should be considered as integral part of the supply of construction services and therefore, should attract GST at the same rates. The recommendation by the GST Council dated 09.09.2024 was accepted by the Government of India and accordingly, through Circular dated 11.10.2024, issued under Section 168(1) of the Act, a clarification in this regard was issued. Relevant portion of the clarification issued by the Government of India through its Circular dated 11.10.2024 is reproduced below for ready reference: -

“8. Applicability of GST on Preferential Location Charges (PLC) collected along with consideration for sale/ transfer of residential / commercial properties:

8.1 Allowing choice of location of apartment is integral part of supply of construction services and therefore, location charge is nothing but part of consideration charged for supply of construction services before issuance of completion certificate. Being charged along with supply of construction services for the apartment, the same attract GST at same rate as of construction services before issuance of completion certificate.

8.2 Therefore, based on the recommendations of the 54th GST Council, it is hereby clarified that location charges or Preferential Location Charges (PLC) paid along with the consideration for the



construction services of residential /commercial/industrial complex forms part of composite supply where supply of construction services is the main service and PLC is naturally bundled with it and are eligible for same tax treatment as the main supply of construction service.”

(10) Thus, as per the above clarification the Government of India, after accepting the recommendation made by the GST Council, acknowledged that the charges collected by developers like the petitioner against preferential location of an apartment would attract GST at the same rate as applicable to construction services before issuance of the apartment's completion certificate.

(11) The Circular by the Government of India dated 11.10.2024, issued under Section 168(1) of the Act, binds the respondent-authorities. The Circular being in the nature of a clarification, would also have retrospective application. Therefore, the impugned order of the Authority dated 28.08.2020 (Annexure P-14) along with order of the appellate authority dated 28.03.2022 (Annexure P-17), which are contrary to the clarification given through the Circular dated 11.10.2024, are quashed, with necessary consequences to follow.

(DEEPAK SIBAL)
JUDGE

13.05.2026
sunil yadav

(LAPITA BANERJI)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No